

## SUBCOMMITTEE: TRANSPORTATION &amp; PUBLIC SAFETY

HOUSE BILL NO. 1439

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on/for \_\_\_\_\_)

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Jones)

A BILL to amend and reenact §§ 18.2-323.1, 46.2-208, 46.2-882, 46.2-1078.1, 46.2-1092, 46.2-1094, 46.2-1158, and 46.2-1300 and to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1 and by adding a section numbered 46.2-882.1, relating to transportation safety.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-323.1, 46.2-208, 46.2-882, 46.2-1078.1, 46.2-1092, 46.2-1094, 46.2-1158, and 46.2-1300 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1 and by adding a section numbered 46.2-882.1 as follows:**

**§ 18.2-323.1. Drinking while operating a motor vehicle; possession of open container in a motor vehicle and presumption; penalty.**

A. ~~It shall be~~ is unlawful for any person to consume ~~an~~ or knowingly or intentionally possess any alcoholic beverage ~~while driving~~ other than in the manufacturer's unopened original container in a motor vehicle that is upon a public highway of ~~this~~ the Commonwealth, including the shoulder thereof, as defined in § 46.2-100. If the seal on a container of an alcoholic beverage is broken or some of the contents have been removed, a container shall be presumed to be open.

B. A rebuttable presumption that the driver has consumed an alcoholic beverage in violation of this section shall be created if (i) an open container is located within the passenger area of the motor vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed and (iii) the appearance, conduct, odor of alcohol, speech or other physical characteristic of the driver of the motor vehicle may be reasonably associated with the consumption of an alcoholic beverage.

27 C. The provisions of this section shall not apply:

28 1. If an open container containing an alcoholic beverage is in a locked glove compartment or in  
29 the trunk of the motor vehicle, or is behind the last upright seat or in an area not normally occupied by the  
30 driver or a passenger in a motor vehicle that is not equipped with a trunk; or

31 2. If an open container containing an alcoholic beverage is in the passenger area of a motor vehicle  
32 designed, maintained, and used primarily for the transportation of persons for compensation regulated and  
33 being operated as a motor carrier pursuant to Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 or is in the  
34 living quarters of a motor home, provided that the container is not in the possession of the driver of the  
35 motor vehicle.

36 D. For the purposes of this section:

37 "Open container" means any vessel containing an alcoholic beverage, except the originally sealed  
38 manufacturer's container.

39 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within  
40 the reach of the driver, including an unlocked glove compartment, and the area designed to seat  
41 passengers. ~~This term shall~~ "Passenger area" does not include the trunk of any passenger vehicle, the area  
42 behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any  
43 similar vehicle, the living quarters of a motor home, or the passenger area of a motor vehicle designed,  
44 maintained or used primarily for the transportation of persons for compensation, including a bus, taxi, or  
45 limousine, while engaged in the transportation of such persons.

46 "Public highway" does not include any motor vehicle parking lot.

47 ~~C.-E.~~ A violation of this section is punishable as a Class 4 misdemeanor.

48 **§ 46.2-208. Records of Department; when open for inspection; release of privileged**  
49 **information.**

50 A. All records in the office of the Department containing the specific classes of information  
51 outlined below shall be considered privileged records:

52 1. Personal information, including all data defined as "personal information" in § 2.2-3801;

53           2. Driver information, including all data that relates to driver's license status and driver activity;  
54 and

55           3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle  
56 activity data.

57           B. The Commissioner shall release such information only under the following conditions:

58           1. Notwithstanding other provisions of this section, medical data included in personal data shall  
59 be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

60           2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

61           3. Notwithstanding other provisions of this section, information disclosed or furnished shall be  
62 assessed a fee as specified in § 46.2-214.

63           4. When the person requesting the information is (i) the subject of the information, (ii) the parent  
64 or guardian of the subject of the information, (iii) the authorized representative of the subject of the  
65 information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall  
66 provide him with the requested information and a complete explanation of it. Requests for such  
67 information need not be made in writing or in person and may be made orally or by telephone, provided  
68 that the Department is satisfied that there is adequate verification of the requester's identity. When so  
69 requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the  
70 information, (c) the authorized representative of the subject of the information, or (d) the owner of the  
71 vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the  
72 personal information provided and furnish driver and vehicle information in the form of an abstract of the  
73 record.

74           5. On the written request of any insurance carrier, surety, or representative of an insurance carrier  
75 or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of  
76 the record of any person subject to the provisions of this title. The abstract shall include any record of any  
77 conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership  
78 of a motor vehicle or of any injury or damage in which he was involved and a report of which is required  
79 by § 46.2-372. No such report of any conviction or accident shall be made after 60 months from the date

of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6.

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the Commissioner shall (i) compare personal information supplied by the company or agent with that contained in the Department's records and, when the information supplied by the company or agent is different from that contained in the Department's records, provide the company or agent with correct information as contained in the Department's records and (ii) provide the company or agent with driver information in the form of an abstract of any person subject to the provisions of this title. Such abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract shall include any record of any conviction or accident more than 60 months after the date of such conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any

conviction or accident pertaining thereto shall cease to be included in such abstract after 60 months from the date on which the driver's license or driving privilege was reinstated. No abstract released under this subdivision shall be admissible in evidence in any court proceedings.

9. On the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the Department's records and, when the information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, is different from that contained in the Department's records, provide the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct information as contained in the Department's records and (ii) provide driver and vehicle information in the form of an abstract of the record showing all convictions, accidents, and driver's license suspensions or revocations. The Commissioner may also release other appropriate information as the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out its official functions. The abstract shall be provided free of charge.

10. On request of the driver licensing authority in any other state or foreign country, the Commissioner shall provide whatever classes of information the requesting authority shall require in order to carry out its official functions. The information shall be provided free of charge.

11. On the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer,

or agent with correct information as contained in the Department's records and (ii) provide the employer, prospective employer, or agent with driver information in the form of an abstract of an individual's record showing all convictions, accidents, driver's license suspensions or revocations, and any type of driver's license that the individual currently possesses, provided that the individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

12. On the written request of any member of or applicant for membership in a volunteer fire company or any volunteer emergency medical services personnel or applicant to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the volunteer fire company or volunteer emergency medical services agency with that contained in the Department's records and, when the information supplied by the volunteer fire company or volunteer emergency medical services agency is different from that contained in the Department's records, provide the volunteer fire company or volunteer emergency medical services agency with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the member's, personnel, or applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency to serve as a member of a volunteer emergency medical services agency and the abstract is needed by a volunteer fire company or volunteer emergency medical services agency to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America is different from that contained in the Department's records, provide the Virginia affiliate of Big Brothers/Big Sisters of America with correct information as contained in the Department's records and (ii)

provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15. Upon the request of any employer, prospective employer, or authorized representative of either, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the driving record of any individual who has been issued a commercial driver's license, provided that the individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions, revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

16. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

17. Upon the request of an attorney representing a person in a motor vehicle accident, the Commissioner shall provide vehicle information, including the owner's name and address, to the attorney.

18. Upon the request, in the course of business, of any authorized representative of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802 the Commissioner shall provide vehicle information, including the owner's name and address.

20. Upon written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, ~~or~~ traffic light photo-monitoring system, or speed monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator, ~~or~~ traffic light photo-monitoring system operator, or speed monitoring system acting on behalf of a government entity, or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1, ~~or~~ subsection H of § 15.2-968.1, subsection N of § 46.2-819.5, or subdivision B 6 of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having (i) failed to pay a toll or having, (ii) failed to comply with a traffic light signal, (iii) driven in excess of maximum speed limits, or (iv) having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.



213           22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate  
214 of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of  
215 Compeer with that contained in the Department's records and, when the information supplied by a Virginia  
216 affiliate of Compeer is different from that contained in the Department's records, provide the Virginia  
217 affiliate of Compeer with correct information as contained in the Department's records and (ii) provide  
218 driver information in the form of an abstract of the applicant's record showing all convictions, accidents,  
219 license suspensions or revocations, and any type of driver's license that the individual currently possesses.  
220 Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied  
221 by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of  
222 Compeer.

223           23. Upon the request of the Department of Environmental Quality for the purpose of obtaining  
224 vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles,  
225 pursuant to § 46.2-1178.1.

226           24. On the written request of any person who has applied to be a volunteer vehicle operator with a  
227 Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information  
228 supplied by a Virginia chapter of the American Red Cross with that contained in the Department's records  
229 and, when the information supplied by a Virginia chapter of the American Red Cross is different from that  
230 contained in the Department's records, provide the Virginia chapter of the American Red Cross with  
231 correct information as contained in the Department's records and (ii) provide driver information in the  
232 form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or  
233 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be  
234 provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written  
235 evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the  
236 American Red Cross.

237           25. On the written request of any person who has applied to be a volunteer vehicle operator with a  
238 Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information supplied  
239 by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records and, when the

information supplied by a Virginia chapter of the Civil Air Patrol is different from that contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol.

26. On the written request of any person who has applied to be a volunteer vehicle operator with Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action with that contained in the Department's records and, when the information supplied by Faith in Action is different from that contained in the Department's records, provide Faith in Action with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

27. On the written request of the surviving spouse or child of a deceased person or the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requestor with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. On the written request of any person who has applied to be a volunteer with a Virginia Council of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and, when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or

267 revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be  
268 provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written  
269 evidence that the person has applied to be a volunteer with the Virginia Council of the Girl Scouts of the  
270 USA.

271 29. Upon written agreement, the Commissioner may digitally verify the authenticity and validity  
272 of a driver's license, learner's permit, or special identification card to the American Association of Motor  
273 Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or other organization approved  
274 by the Commissioner.

275 30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting  
276 on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to  
277 subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name  
278 and address of the owner of the vehicle having passed a stopped school bus and the vehicle information,  
279 including all descriptive vehicle data and title and registration data for such vehicle.

280 C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving  
281 privilege of any individual, he may notify the National Driver Register Service operated by the United  
282 States Department of Transportation and any similar national driver information system and provide  
283 whatever classes of information the authority may require.

284 D. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

285 E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the  
286 Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the  
287 Commercial Driver License Information System, or any similar national commercial driver information  
288 system, regarding such action.

289 F. In addition to the foregoing provisions of this section, vehicle information may also be inspected  
290 under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

291 G. The Department may promulgate regulations to govern the means by which personal, vehicle,  
292 and driver information is requested and disseminated.

293 H. Driving records of any person accused of an offense involving the operation of a motor vehicle  
294 shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If  
295 such counsel is from the public defender's office or has been appointed by the court, such records shall be  
296 provided free of charge.

297 I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2,  
298 subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by  
299 every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall  
300 be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision  
301 B 9.

302 J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the  
303 National Motor Vehicle Title Information System, or any other nationally recognized system providing  
304 similar information, or any entity contracted to collect information for such system, and may provide  
305 whatever classes of information are required by such system.

306 **§ 46.2-224.1. Education and oversight of enforcement of highway safety policies.**

307 A. The Commissioner shall establish an advisory council to monitor the effectiveness and  
308 enforcement of §§ 18.2-323.1, 46.2-1078.1, and 46.2-1094. The council shall include members  
309 representing (i) a nonprofit organization primarily focused on promoting programs and education related  
310 to traffic safety in the Commonwealth, (ii) the Virginia Association of Chiefs of Police and the Virginia  
311 Sheriffs' Association, (iii) organizations focused on social equity and justice issues, (iv) the Virginia State  
312 Police, and (v) a traffic safety organization. The council shall review whether the enforcement of §§ 18.2-  
313 323.1, 46.2-1078.1, and 46.2-1094 has a disproportionate impact on minority or low-income populations.

314 B. The Commissioner, working with the organizations described in clauses (i), (ii), and (v) of  
315 subsection A, shall create training and educational materials on the implementation and enforcement of  
316 §§ 18.2-323.1, 46.2-1078.1, and 46.2-1094. These materials shall be reviewed by the advisory council  
317 established pursuant to subsection A and made available to law-enforcement agencies.

C. The Commissioner, working with the organizations described in clauses (i) and (v) of subsection A, shall create and provide educational materials for the public regarding the provisions of §§ 18.2-323.1, 46.2-1078.1, and 46.2-1094.

**§ 46.2-882. Determining speed with various devices; certificate as to accuracy of device; arrest without warrant.**

The speed of any motor vehicle may be determined by the use of (i) a laser speed determination device, (ii) radar, (iii) a microcomputer device that is physically connected to an odometer cable and both measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle, ~~or~~ (iv) a microcomputer device that is located aboard an airplane or helicopter and measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle being operated on highways within the Interstate System of highways as defined in § 33.2-100, or (v) a speed monitoring system as provided in § 46.2-882.1. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceeding where the speed of the motor vehicle is at issue.

In any court or legal proceeding in which any question arises about the calibration or accuracy of any laser speed determination device, radar, ~~or~~ microcomputer device, or speed monitoring system as described in this section used to determine the speed of any motor vehicle, a certificate, or a true copy thereof, showing the calibration or accuracy of ~~(i) (a)~~ the speedometer of any vehicle, ~~(ii) (b)~~ any tuning fork employed in calibrating or testing the radar or other speed determination device, ~~or (iii) (c)~~ any other method employed in calibrating or testing any laser speed determination device or speed monitoring system, and when and by whom the calibration was made, shall be admissible as evidence of the facts therein stated. No calibration or testing of such device or system shall be valid for longer than six months.

The driver of any such motor vehicle may be arrested without a warrant under this section if the arresting officer is in uniform and displays his badge of authority and if the officer has observed the registration of the speed of such motor vehicle by the laser speed determination device, radar, or microcomputer device as described in this section, or has received a radio message from the officer who observed the speed of the motor vehicle registered by the laser speed determination device, radar, or microcomputer device as described in this section. However, in case of an arrest based on such a message, such radio message shall have been dispatched immediately after the speed of the motor vehicle was registered and furnished the license number or other positive identification of the vehicle and the registered speed to the arresting officer.

Neither State Police officers nor local law-enforcement officers shall use laser speed determination devices or radar, as described herein in airplanes or helicopters for the purpose of determining the speed of motor vehicles.

State Police officers may use laser speed determination devices, radar, and/or microcomputer devices as described in this section. All localities may use radar ~~and~~, laser speed determination devices, or speed monitoring devices as provided in § 46.2-882.1 to measure speed. The Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within such counties may use microcomputer devices as described in this section.

~~The~~ With the exception of a speed monitoring system as defined in § 46.2-882.1, the Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper equipment used to determine the speed of motor vehicles and shall advise the respective law-enforcement officials of the same. Police

chiefs and sheriffs shall ensure that all such equipment and devices purchased on or after July 1, 1986, meet or exceed the standards established by the Division.

**§ 46.2-882.1. Use of speed monitoring systems.**

A. For purposes of this section:

"Highway safety corridor" means those portions of highways in the primary state highway system and Interstate System designated in accordance with § 33.2-253.

"Speed monitoring system" means a vehicle sensor that automatically produces two or more photographs, two or more microphotographs, video, or other recorded data of a motor vehicle traveling at a speed of at least 10 miles per hour in excess of the maximum applicable speed limit. For each such vehicle, at least two recorded images shall include the motor vehicle and the same stationary object near the motor vehicle and at least one recorded image shall include the license plate of the motor vehicle.

All recorded images shall include the time, date, and location of the vehicle when the image is recorded.

B. The Department of State Police shall establish a speed enforcement program by installing and operating a speed monitoring system in highway safety corridors for the purpose of recording violations of §§ 46.2-870 and 46.2-878.

1. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a speed monitoring system, to have violated the maximum speed limit in a designated highway safety corridor. Notwithstanding the provisions of § 46.2-947, such civil penalty imposed pursuant to this section shall not be doubled and shall not exceed the applicable fine set forth in the Traffic Infractions and Uniform Fine Schedule adopted by the Supreme Court for prepayments of fines for violations of §§ 46.2-870 and 46.2-878, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions. Any finding in a district court that an operator has violated the maximum applicable speed limit in a highway safety corridor shall be appealable to the circuit court in a civil proceeding. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

2. If a speed monitoring system is used, proof of a violation of § 46.2-870 or 46.2-878 shall be evidenced by information obtained from such system. A certificate, sworn to or affirmed by a technician employed or authorized by the speed monitoring system operator, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a speed monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation of § 46.2-870 or 46.2-878.

3. In the prosecution for a violation of § 46.2-870 or 46.2-878, in which a summons was issued pursuant to this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of § 46.2-870 or 46.2-878, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of § 46.2-870 or 46.2-878, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

4. A summons for a violation of § 46.2-870 or 46.2-878 issued pursuant to this section shall be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subdivision 3 and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed for a violation of § 46.2-870 or 46.2-878 shall provide to the person summoned at least 30 days from the mailing of the summons to inspect information collected by a speed monitoring system in connection with the violation. If the Department of State Police does not execute a summons for a violation § 46.2-870 or 46.2-878 within 14 days from the date of the violation, all information collected pertaining to that suspected violation shall be purged within 16 days from the date of the violation.

5. Information collected by a speed monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of speed limits in a highway safety corridor. On behalf of the Department of State Police, a private entity that operates a speed monitoring system may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to comply with the maximum speed limit in a highway safety corridor. Information provided to the operator of a speed monitoring system shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system, and used only for enforcement against individuals who violate the provisions of this section. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a speed monitoring system shall be used exclusively for enforcing applicable speed limits and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a speed limit violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a speed limit violation or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. The Department of State Police when operating a speed monitoring system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private entity.

6. A private entity may enter into an agreement with the Department of State Police to be compensated for providing the speed monitoring system or equipment, and all related support services, to include consulting, operations, and administration. The Department of State Police shall enter into an agreement

for compensation based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed.

7. The Department of State Police shall evaluate the system on a monthly basis to ensure all cameras are functioning properly and shall have the speed monitoring system calibrated on a semiannual basis by an independent laboratory that is unaffiliated with the manufacturer of the speed monitoring system or equipment. Evaluation and calibration results shall be made available to the public.

8. The Department of Transportation shall place a conspicuous sign, in accordance with § 33.2-253, indicating the use of a speed monitoring system for speed enforcement in the highway safety corridor. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the speed limit violation.

9. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a speed monitoring system is owned, leased, or rented by the Commonwealth, or a county, city, or town, then the Commonwealth, county, city, or town may access and use the recorded images and associated information for employee disciplinary purposes.

C. State Police may retain monetary penalties imposed pursuant to this section in an amount not to exceed the State Police's direct costs for operating the program.

**§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.**

A. It is unlawful for any person to operate while driving a moving motor vehicle on the highways in the Commonwealth while using any to hold a handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or

2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information.

B. It is unlawful for any person while driving a moving motor vehicle in a highway work zone to hold in his hand a handheld personal communications device.

C. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;

2. An operator who is lawfully parked or stopped;

3. The use of factory installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or

4. Any person using a handheld personal communications device to report an emergency;

4. A person using an amateur radio or citizen band radio; or

5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1 during the performance of traffic incident management services.

D. A violation of subsection A is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250. A violation of subsection B is punishable by a mandatory fine of \$250.

E. For the purposes of this section:

"Emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;



3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
4. Any emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency-medical-services relief where human life is endangered;
5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and
7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.
- "Highway work zone" means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.
- F. Distracted driving shall be included as a part of the driver's license knowledge examination.
- § 46.2-1094. Occupants of front seats of motor vehicles required to use safety lap belts and shoulder harnesses; penalty.**
- A. Any driver, and any other person at least 18 years of age and occupying ~~the front seat~~, any seat of a motor vehicle equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices, shall wear the appropriate safety belt system at all times while the motor vehicle is in motion on any public highway. A passenger under the age of 18 years, however, shall be protected as required by the provisions of Article 13 (§ 46.2-1095 et seq.) ~~of this chapter~~.
- B. This section shall not apply to:
1. Any person for whom a licensed physician determines that the use of such safety belt system would be impractical by reason of such person's physical condition or other medical reason, provided the person so exempted carries on his person or in the vehicle a signed written statement of the physician identifying the exempted person and stating the grounds for the exemption; or
  2. Any law-enforcement officer transporting persons in custody or traveling in circumstances which render the wearing of such safety belt system impractical; or
  3. Any person while driving a motor vehicle and performing the duties of a rural mail carrier for the United States Postal Service; or
  4. Any person driving a motor vehicle and performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; or
  5. Drivers of and passengers in taxicabs; or
  6. Personnel of commercial or municipal vehicles while actually engaged in the collection or delivery of goods or services, including but not limited to solid waste, where such collection or delivery requires the personnel to exit and enter the cab of the vehicle with such frequency and regularity so as to render the use of safety belt systems impractical and the safety benefits derived therefrom insignificant. Such personnel shall resume the use of safety belt systems when actual collection or delivery has ceased or when the vehicle is in transit to or from a point of final disposition or disposal, including but not limited to solid waste facilities, terminals, or other location where the vehicle may be principally garaged; or
  7. Any person driving a motor vehicle and performing the duties of a utility meter reader; or
  8. Law-enforcement agency personnel driving motor vehicles to enforce laws governing motor vehicle parking; or
  9. Any person in a motor vehicle not equipped with seat belts.

C. Any person who violates this section shall be subject to a civil penalty of ~~twenty-five dollars~~ \$25 for a first offense, \$35 for a second offense, and \$50 for a third or subsequent offense to be paid into the state treasury and credited to the Literary Fund. Upon a conviction under this section, the court shall furnish the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction, which shall become part of the person's driving record. No assignment of demerit points shall be made under Article 19 of Chapter 3 (§ 46.2-489 et seq.) ~~of this title~~ and no court costs shall be assessed for violations of this section.

D. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action.

E. A violation of this section may be charged on the uniform traffic summons form.

~~F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.~~

G. The governing body of the City of Lynchburg may adopt an ordinance not inconsistent with the provisions of this section, requiring the use of safety belt systems. The penalty for violating any such ordinance shall not exceed a fine or civil penalty of ~~twenty-five dollars~~ \$25.

**§ 46.2-1158. Frequency of inspection; scope of inspection.**

Motor vehicles, trailers, and semitrailers required to be inspected pursuant to the provisions of § 46.2-1157 shall be reinspected within ~~12~~ 24 months of the month of the first inspection and at least once every ~~12~~ 24 months thereafter.

Each inspection shall be a complete inspection. A reinspection of a rejected vehicle by the same station during the period of validity of the rejection sticker on such vehicle, however, need only include an inspection of the item or items previously found defective unless there is found an obvious defect that would warrant further rejection of the vehicle.

A rejection sticker shall be valid for 15 calendar days beyond the day of issuance. A complete inspection shall be performed on any vehicle bearing an expired rejection sticker.

The completion of the conversion process for a converted electric vehicle shall invalidate any inspection of such vehicle conducted in accordance with this section prior to the conversion. Following the initial inspection of a converted electric vehicle, as required under § 46.2-602.3 and the provisions of this chapter, such vehicle shall be reinspected in accordance with this section.

**§ 46.2-1300. Powers of local authorities generally; erection of signs and markers; maximum penalties.**

587           A. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with  
588 the provisions of this title to regulate the operation of vehicles on the highways in such counties, cities,  
589 and towns. They may also repeal, amend, or modify such ordinances and may erect appropriate signs or  
590 markers on the highway showing the general regulations applicable to the operation of vehicles on such  
591 highways. The governing body of any county, city, or town may by ordinance, or may by ordinance  
592 authorize its chief administrative officer to:

593           1. Increase or decrease the speed limit within its boundaries, provided such increase or decrease in  
594 speed shall be based upon an engineering and traffic investigation by such county, city or town and  
595 provided such speed area or zone is clearly indicated by markers or signs;

596           2. Authorize the city or town manager or such officer thereof as it may designate, to reduce for a  
597 temporary period not to exceed ~~sixty~~ 60 days, without such engineering and traffic investigation, the speed  
598 limit on any portion of any highway of the city or town on which work is being done or where the highway  
599 is under construction or repair;

600           3. Require vehicles to come to a full stop or yield the right-of-way at a street intersection if one or  
601 more of the intersecting streets has been designated as a part of the primary state highway system in a  
602 town which has a population of less than 3,500;

603           4. Reduce the speed limit to less than 25 miles per hour on any highway within its boundaries that  
604 is located in a business district or residential district, provided such reduced speed limit is indicated by  
605 lawfully placed signs.

606           B. No such ordinance shall be violated if at the time of the alleged violation the sign or marker  
607 placed in conformity with this section is missing, substantially defaced, or obscured so that an ordinarily  
608 observant person under the same circumstances would not be aware of the existence of the ordinance.

609           C. No governing body of a county, city, or town may provide penalties for violating a provision  
610 of an ordinance adopted pursuant to this section which is greater than the penalty imposed for a similar  
611 offense under the provisions of this title.

612 D. No county whose roads are under the jurisdiction of the Department of Transportation shall  
613 designate, in terms of distance from a school, the placement of flashing warning lights unless the authority  
614 to do so has been expressly delegated to such county by the Department of Transportation, in its discretion.

615 **2. That the provisions of this act amending §§ 18.2-323.1, 46.2-1078.1, and 46.2-1094 of the Code of**  
616 **Virginia shall become effective July 1, 2021.**

617 **3. That the Chairmen of the House Committee for Courts of Justice and the Senate Committee on**  
618 **the Judiciary, and the Joint Commission on Transportation Accountability shall annually request**  
619 **the Office of the Executive Secretary of the Supreme Court of Virginia to report all of the citations**  
620 **issued pursuant to the provisions of this act and, to the extent available, the relevant demographic**  
621 **characteristics of those persons issued a citation.**

622 #